

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1402

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DATE	D-PG	OFFICIAL STATUS
02/23/2017	769	Introduction and first reading
		Referred to Commerce and Consumer Protection Finance and Policy
03/08/2018	6372	Withdrawn and re-referred to State Government Finance and Policy and Elections

1.1 A bill for an act

1.2 relating to commerce; authorizing and regulating fantasy sports; appropriating

1.3 money; amending Minnesota Statutes 2016, sections 541.20; 541.21; 609.761, by

1.4 adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter

1.5 325F.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **325F.9901 CONSUMER PROTECTION; FANTASY SPORTS.**

1.8 Subdivision 1. **Fantasy game operation requirements.** A game operator offering a

1.9 fantasy game with an entry fee in this state must implement commercially reasonable

1.10 procedures to:

1.11 (1) prevent employees of the game operator and relatives living in the same household

1.12 as employees of the game operator from competing in any public fantasy game with an

1.13 entry fee offered by any game operator in which the operator offers a cash prize to the

1.14 general public;

1.15 (2) prevent disclosure of confidential information that could affect fantasy game play

1.16 with third parties before the information is made publicly available;

1.17 (3) prevent a game operator from participating in a fantasy game the game operator

1.18 offers;

1.19 (4) provide that no winning outcome is based on the score, point spread, or any

1.20 performance of any single actual sports team or combination of such teams or solely on any

1.21 single performance of an individual athlete or participant in any single actual sporting event;

1.22 (5) prohibit the following persons from participating in fantasy contests based on the

1.23 sport or competition in which the person participates or is otherwise associated:

2.1 (i) athletes and individuals who participate or officiate in a game or competition that is
2.2 the subject of a fantasy sports contest;

2.3 (ii) any sports agent, team employee, referee, or league official associated with a sport
2.4 or athletic event;

2.5 (6) verify that a fantasy game player in such fantasy game is 18 years of age or older;

2.6 (7) provide fantasy game players with access to information on responsible play;

2.7 (8) provide fantasy game players with information about resources relating to compulsive
2.8 behavior and where to seek assistance for compulsive behavior;

2.9 (9) provide fantasy game players with access to the fantasy game player's play history
2.10 and account details, including all deposit amounts, withdrawal amounts, and bonus or
2.11 promotion information, including how much is left on any pending bonus or promotion and
2.12 how much has been released to the fantasy game player;

2.13 (10) allow individuals to restrict themselves from entering such a fantasy game upon
2.14 request and provide reasonable steps to prevent the person from entering such fantasy games
2.15 offered by the fantasy game operator;

2.16 (11) disclose the number of entries a single fantasy game player may submit to each
2.17 fantasy game with an entry fee and take reasonable steps to prevent a player from submitting
2.18 more than the allowable number;

2.19 (12) segregate fantasy contest player funds from operational funds or maintain a reserve
2.20 that exceeds the amount of player funds on deposit, which reserve may not be used for
2.21 operational activities. These reserve funds may take the form of cash, cash equivalents,
2.22 payment processor reserves, payment processor receivables, an irrevocable letter of credit,
2.23 a bond, or a combination thereof, in the amount that must exceed the total balances of the
2.24 fantasy contest players' accounts;

2.25 (13) prominently publish the rules governing each fantasy game with an entry fee;

2.26 (14) prohibit the use of scripts unless the scripts are made readily available to all fantasy
2.27 game players;

2.28 (15) develop and prominently publish procedures by which a person may file a complaint
2.29 with the operator; and

2.30 (16) disclose the terms of all promotional offers at the time the offers are advertised,
2.31 and provide full disclosures of limitations on the offer before a person provides financial
2.32 consideration in exchange for the offer.

3.1 Subd. 2. **Definitions.** For purposes of this section, "game operator," "fantasy game,"
3.2 "confidential information," "script," and "entry fee" have the meanings given them under
3.3 section 609.761, subdivision 7. "Commissioner" means the commissioner of public safety.
3.4 "Script" means commands that a computer program can execute to automate processes on
3.5 a game operator's Web site or application.

3.6 Subd. 3. **Registration.** (a) A game operator shall register with the Department of Public
3.7 Safety within 30 days of offering a fantasy game to a person in Minnesota. The registration
3.8 statement must include:

3.9 (1) the business name, address, and contact information of the game operator;

3.10 (2) the game operator's Web site address;

3.11 (3) the names and addresses of the game operator's officers, directors, and any stakeholder
3.12 with more than 15 percent interest in the operator;

3.13 (4) the game operator's tax identification number; and

3.14 (5) proof of the game operator's financial security in an amount sufficient to comply
3.15 with the provisions of subdivision 1, clause (9).

3.16 (b) The registration must be submitted by January 15 of every year, and within 30 days
3.17 if there is a material change in the operator's registration information. The commissioner
3.18 may not issue a registration under this chapter or may revoke a registration if the operator
3.19 fails to comply with the requirements of this section or the applicant has ever been convicted
3.20 of a felony-level theft or fraud.

3.21 (c) The commissioner may charge an annual registration fee of \$500 that adequately
3.22 covers the cost of issuing the registration and other registration duties. The fees shall be
3.23 deposited in an account in the special revenue fund and are appropriated to the commissioner
3.24 for the purposes of this subdivision.

3.25 (d) The commissioner may conduct a criminal background check, of any officer, director
3.26 or stakeholder with more than 15 percent interest in the operator. The commissioner may
3.27 charge a fee that covers the cost of the fingerprint recording and review along with the fees
3.28 for the background check at the Bureau of Criminal Apprehension and Federal Bureau of
3.29 Investigation. The check must consist of a criminal history check of the state criminal records
3.30 repository and a national criminal background check. The commissioner shall accept the
3.31 signed informed consent for the national criminal background check request, the fingerprints
3.32 of the applicant, and the fees. The commissioner will submit the signed informed consent,
3.33 fingerprints, and Bureau of Criminal Apprehension and Federal Bureau of Investigation

4.1 fees to the superintendent of the Bureau of Criminal Apprehension who is authorized to
 4.2 exchange the fingerprints with the Federal Bureau of Investigation to obtain the applicant's
 4.3 national criminal history record information. The superintendent shall also retrieve Minnesota
 4.4 criminal history data and will provide the results of both checks to the commissioner for a
 4.5 determination whether the officer, director, or stakeholder is disqualified. Notwithstanding
 4.6 the foregoing, a game operator may continue to operate during the pendency of a criminal
 4.7 history check and until such time as a final determination whether the officer, director, or
 4.8 stakeholder is disqualified.

4.9 Subd. 4. **Audits.** A game operator shall contract annually with a third party to perform
 4.10 an independent audit, consistent with the standards established by the Public Company
 4.11 Accounting Oversight Board or using the Statements on Accounting Standards issued by
 4.12 the Audit Standards Board of the American Institute of Certified Public Accountants, to
 4.13 ensure compliance with this section. The game operator must submit the audit to the
 4.14 commissioner for examination and inspection.

4.15 Subd. 5. **Penalty.** Any person, firm, corporation, association, or agent who knowingly
 4.16 violates any requirement under this section is liable for a civil penalty of not more than
 4.17 \$1,000 for each violation, not to exceed \$50,000 for violations arising out of the same
 4.18 transaction or occurrence, which shall accrue to the state and may be recovered in a civil
 4.19 action brought by the commissioner.

4.20 Subd. 6. **Investigations and powers.** The commissioner may designate certain division
 4.21 employees who are authorized to investigate any person who is suspected of violating any
 4.22 provision of this section and to conduct searches and seizures to enforce any of those laws.
 4.23 Nothing in this section limits the authority of the division to exercise any other power
 4.24 specified under chapter 240, 299L, 340A, 349, or 349A.

4.25 Sec. 2. Minnesota Statutes 2016, section 541.20, is amended to read:

4.26 **541.20 RECOVERY OF MONEY LOST.**

4.27 Every person who, by playing at cards, dice, or other game, or by betting on the hands
 4.28 or sides of such as are gambling, shall lose to any person so playing or betting any sum of
 4.29 money or any goods, and pays or delivers the same, or any part thereof, to the winner, may
 4.30 sue for and recover such money by a civil action, before any court of competent jurisdiction.
 4.31 For purposes of this section, gambling shall not include pari-mutuel wagering conducted
 4.32 under a license issued pursuant to chapter 240, purchase or sale of tickets in the State Lottery,
 4.33 ~~or~~ gambling authorized under chapters 349 and 349A, or participation in a fantasy game as
 4.34 defined under section 609.761, subdivision 7.

5.1 Sec. 3. Minnesota Statutes 2016, section 541.21, is amended to read:

5.2 **541.21 COMMITMENTS FOR GAMBLING DEBT VOID.**

5.3 Every note, bill, bond, mortgage, or other security or conveyance in which the whole or
 5.4 any part of the consideration shall be for any money or goods won by gambling or playing
 5.5 at cards, dice, or any other game whatever, or by betting on the sides or hands of any person
 5.6 gambling, or for reimbursing or repaying any money knowingly lent or advanced at the
 5.7 time and place of such gambling or betting, or lent and advanced for any gambling or betting
 5.8 to any persons so gambling or betting, shall be void and of no effect as between the parties
 5.9 to the same, and as to all persons except such as hold or claim under them in good faith,
 5.10 without notice of the illegality of the consideration of such contract or conveyance. The
 5.11 provisions of this section shall not apply to: (1) pari-mutuel wagering conducted under a
 5.12 license issued pursuant to chapter 240; (2) purchase of tickets in the State Lottery under
 5.13 chapter 349A; (3) gaming activities conducted pursuant to the Indian Gaming Regulatory
 5.14 Act, United States Code, title 25, section 2701 et seq.; ~~or~~ (4) lawful gambling activities
 5.15 permitted under chapter 349; or (5) participation in a fantasy game as defined under section
 5.16 609.761, subdivision 7.

5.17 Sec. 4. Minnesota Statutes 2016, section 609.761, is amended by adding a subdivision to
 5.18 read:

5.19 Subd. 7. **Fantasy games.** (a) For purposes of this subdivision, the following terms have
 5.20 the meanings given them:

5.21 (1) "Athlete" means a human individual who participates in a real world sports contest
 5.22 or event.

5.23 (2) "entry fee" means cash or cash equivalent that is required to be paid by a fantasy
 5.24 game player to a game operator to participate in a fantasy game;

5.25 (3) "commissioner" means the commissioner of public safety or a person to whom the
 5.26 commissioner has delegated authority;

5.27 (4) "confidential information" means information related to the play of a fantasy contest
 5.28 by fantasy contest players obtained as a result of or by virtue of a person's employment;

5.29 (5) "fantasy game" means any online fantasy or simulated game or contest with an entry
 5.30 fee in which one or more players compete against each other in which: (i) the value of all
 5.31 prizes and awards offered to winning participants is established and made known to the
 5.32 participants in advance of a contest that is open to the general public; (ii) all winning
 5.33 outcomes reflect the relative knowledge and skill of the participants and shall be determined

6.1 by accumulated statistical results of the performance of individuals, including athletes in
6.2 the case of sports events; and (iii) no winning outcome is based on the score, point spread,
6.3 any performance of any single actual team or combination of teams, or solely on any single
6.4 performance of an individual athlete or player in any single actual event;

6.5 (6) "game operator" means a person or entity that offers a platform for the playing of
6.6 fantasy games, administers one or more fantasy games with an entry fee, and awards a prize
6.7 of value; and

6.8 (7) "script" means a list of commands that a computer program related to a fantasy game
6.9 can execute and that is created by a fantasy game player, or by a third party for a fantasy
6.10 game player, to automate processes on a fantasy game platform.

6.11 (b) A fantasy game operator shall not offer fantasy games based on the performances
6.12 of participants in collegiate, high school, or youth athletic events.

6.13 (c) A fantasy game conducted by a game operator registered with the commissioner of
6.14 public safety under section 325F.9901, subdivision 3, is a bona fide contest for the
6.15 determination of skill under section 609.75, subdivision 3, clause (3), and is not a violation
6.16 of sections 609.75, 609.755, and 609.76.

6.17 (d) Sections 609.755 and 609.76 do not prohibit a game operator registered with the
6.18 commissioner of public safety under section 325F.9901, subdivision 3, from offering a
6.19 fantasy game.